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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,402	11/20/2003	Jacqui Everett	EVERETT 201-KFM	9741

7590

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Karl F. Milde, Jr., Esq.  
MILDE & HOFFBERG, LLP  
Suite 460  
10 Bank Street  
White Plains, NY 10606

EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,402

Applicant(s)

EVERETT, JACQUI

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-18 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 19-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 33 is objected to because of the following informalities: Claim 33 recites "the method recited in claim 1", however, claim 1 pertains to an apparatus.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 11-13, 16, 17, 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Newman (US 2003/0177984A1). Newman discloses an animal vest to be used as an exercise harness for an animal such as a dog, wherein the vest comprises a first web (102) of flexible material adapted to be affixed to the body of the animal in the region adjacent to at least one of the pair of front and rear legs, the web comprising means (152) for holding at least one weight, which further includes means for holding two weights, one on each side of the animal's body; at least one strap (104 or 156) connected to the web and adapted to retain the web on the animal; and a

weight (110) attached to the web; wherein the web is made of a material selected from the group consisting of cloth, leather and plastic materials; wherein the web is adapted to at least partially cover the chest of the animal, and the strap is adapted to retain the web on the chest; wherein the web is substantially rectangular in shape and has a central longitudinal axis, and is adapted to extend longitudinally from front to rear along the chest of the animal between the pair of front legs, and along the lower loin area between the rear legs; wherein the weight is removable and replaceable on the holding means; wherein the web is adapted to at least partially cover a lower loin area of the animal between its rear legs and the strap (156) is adapted to retain the web on the loin area. Newman discloses a method of exercising or training an animal comprising affixing the above apparatus on a dog; wherein the animal is allowed to move while carrying a weight.

4. Claims 1-4, 10-13, 16-18, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Petronio (5,127,213). Petronio discloses animal training and conditioning apparel capable of use by an animal such as a dog, which comprises a blanket-type member having a first web (4) of flexible material adapted to be affixed to the body of the animal in the region adjacent to at least one of the pair of front and rear legs, the web comprising means (16, 24) which includes a weight pocket (24) for holding at least one weight, which further includes means for holding two weights, one on each side of the animal's body; at least one strap (10) connected to the web and adapted to retain the web on the animal, wherein the at least one strap includes at least two straps

extending over the body of the animal behind the pair of front legs and in front of the pair of rear legs; and a weight which can be pebbles, sand, small stones, coins, solid bars or metal (col. 3, lines 29-31, 60-62) attached to the web; wherein the web is made of a fabric material; wherein the web is adapted (by turning the member such that the straps are on the back of the animal) to at least partially cover the chest of the animal, and the strap is adapted to retain the web on the chest; wherein the web is substantially rectangular in shape and has a central longitudinal axis, and is adapted to extend longitudinally from front to rear along the chest of the animal between the pair of front legs, and along the lower loin area between the rear legs; wherein the weight is removable and replaceable on the holding means; wherein the web is adapted to at least partially cover a lower loin area of the animal between its rear legs and the strap (156) is adapted to retain the web on the loin area. Petronio discloses the use of the training apparel on show or racing dogs (col. 2, lines 50-52).

5. Claims 1-3,7-13,16-18,31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Acoff (5,769,030). Acoff discloses an animal training and conditioning apparatus capable of use by an animal such as a dog, which comprises a first web (22 or 30) of flexible material adapted to be affixed to the body of the animal in the region adjacent to at least one of the pair of front and rear legs, the web comprising means (38 or 46) which includes a weight pocket for holding at least one weight; at least one strap (56) connected to the web and adapted to retain the web on the animal; and a weight (36) which can be metal ingots, or as disclosed in col. 5, lines 11-15, pebbles,

sand, small stones, or coins can be held within the pockets (46) the web; wherein the web is made of a fabric or canvas material; wherein the web is adapted to at least partially cover the chest of the animal or extend along the lower loin area of the animal (depending upon the size or length of the animal, i.e. for a larger animal, the web (30) may fit on the chest region, whereas on a smaller animal, it may fit on the loin), and the at least one strap is adapted to retain the web on the chest or loin, respectively, and wherein the holding means is adapted to hold the weight at a point between the front legs (again, this varies depending upon how the apparatus fits on the specific animal); wherein the web is substantially rectangular in shape; wherein at least one strap includes at least two straps, a first strap (14) extending over the neck of the animal in front of the pair of front legs, and second and third straps (56) extending over the body of the animal behind the front legs; wherein the weight is removable and replaceable on the holding means, and wherein the holding means includes means for holding two weights, one on each side of the animal's body (as on upper portion 28 or lower portion 30). Acoff discloses a method of exercising or training a dog comprising affixing the above apparatus on an animal; wherein the animal is allowed to move while carrying a weight.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3644

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acoff in view of Wesseldine (4,577,591). Although Acoff shows a dog training apparatus having a web carrying a weight, wherein the web is substantially rectangular and is capable of extending between the legs, it is not shown that the web has a trapezoidal portion which is reduced in width. Wesseldine teaches a protective device for dogs comprising a web attached to the animal by straps wherein the web has a trapezoidal, reduced width portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that apparatus of Acoff be shaped as taught by Wesseldine in order to provide a more comfortable and body conforming shape for the animal, and to cover more surface area.

***Allowable Subject Matter***

8. Claims 14, 15, and 19-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on 7:30-5:00 flex schedule.

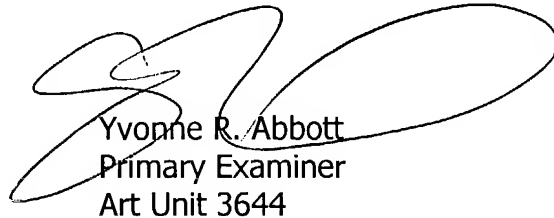
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703)306-4159. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644

05/27/04